IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

WP(C).No. 29000 of 2007(B)

AGAINST THE ORDER DATED 05/07/2007 IN EP.1919/2004 IN OS.1257/2002 of MUNSIFF COURT,THRISSUR

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PETITIONER/ JUDGMENT DEBTORS 1 & 2:
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1. SREEPRAKASH, S/O KANAKKATH SIVADASAN,
VELIYANOOR AMSOM,DESOM, THRISSUR TALUK.

2. CHANDRASEKARA KAIMAL,
S/O KALAPPURAKKAL RAYIRI KAIMAL,
PADIYAM AMSOM,DESOM, THRISSUR TALUK.

BY ADV. SRI.S.M.PREM
SMT.K.P.SANTHI

RESPONDENTS/DECREE HOLDER/JUDGMENT DEBTORS 3 &4:
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1. P.K.B.CHITTES & LOANS(P)LTD.,
VADANAPPILLY AMSOM, DESOM,
CHAVAKKADU VILLAGE, REPRESENTED BY
MANAGING DIRECTOR, GOPI.

2. INDIRA, D/O KANNAKKATH VILASAM AMMA,
VELIANOOR AMSOM,DESOM, THRISSUR TALUK.

3. LATHIKA,
W/O KANAKKATH SIVADASAN,
VELIYANOOR AMSOM,DESOM, THRISSUR TALUK.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 29000 OF 2007

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Dated this the 1st day of October, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside Ext.P2 order and defer execution of the arrest warrant till Ext.P3 is disposed of. A perusal of Ext.P2 order would reveal that PW1 had tendered evidence regarding the means of judgment debtors 1 and 2 and there has been nothing brought out to discard his testimony. Judgment debtors 1 and 2 even did not mount the box to tender any evidence in support of their contentions. Therefore, the Court rightly ordered warrant of arrest against judgment debtors 1 and 2. Now, the learned counsel for the writ petitioners submits that if breathing time is given and an instalment facility is provided, his clients will be in a position to pay the amount. I do not want to send the writ petitioners straight away into the civil prison and it is desirable that they are given an opportunity to pay back the decree amount. Therefore, the writ petition is disposed of as follows.

(1) The writ petitioners are directed to make a payment of Rs.25,000/- to the decree holder within a period of one month from today, i.e., on or before 1.11.07 and are permitted to pay the balance amount in six monthly equal instalments commencing from 1.12.07.

(2) If the judgment debtors do not pay the amount of Rs.25,000/- on or before 1.11.07 or commit breach of two consecutive instalments then the benefit conferred on them by this order will stand automatically cancelled and the decree holder can pray to the Court for execution of the decree by arrest and detention of judgment debtors 1 and 2 in civil prison.

(3) In order to enable the writ petitioners to make the payment, the execution of warrant of arrest ordered by the Court below shall be deferred for a period of two months from today.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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